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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,570	10/24/2003	Charles R. Sales	108633-134963	2154

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

EXAMINER

SPAHN, GAY

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/693,570	SALES, CHARLES R.	
	Examiner	Art Unit	
	Gay Ann Spahn	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003 and 09 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>09 August 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 09 August 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

However, it is noted that U.S. Design Patent No. D319,007 has been listed twice with the first listing having the inventive entity as "Rogers, et al." and the second listing having the inventive entity as "Rogers". Since the first listing appears to have the correct inventive entity, the second listing has been lined through as not being considered.

Drawings

The drawings are objected to because:

(1) in Fig. 1, reference numeral 26 does not have a lead line leading to the structural element it is representing and if reference numeral 26 is located on the structural element it is representing, then reference numeral 26 should be underlined to emphasize such;

(2) in Fig. 1, the dashed circle and the dashed lead line leading to reference numeral 60 with an arrow-ended lead line pointing to slot 30 is not an appropriate way to represent the edge bore;

(3) in Fig. 2, the words "FIG. 1" adjacent to the brace (i.e., "{") should be deleted and if applicant is intimating by such that Figure 1 is a partial cross-sectional view of end of door (18), mullion (20), plate (38), etc., then such should be represented by a section line 1-1 or I-I in Fig. 2; and

(4) in Fig. 5, section line 4-4 should be removed from this figure because Fig. 4 shows additional structural elements such as striker plate 38 and keeper 58 not shown in Fig. 5 and therefore, the cross-sectional view shown in Fig. 4 is not a true cross-sectional view coming from line 4-4 of Fig. 5.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

More particularly, the word "said" on lines 7 and 9 of the Abstract should be changed to --the--.

The disclosure is objected to because of the following informalities:

(1) page 5/12, line 7, the word "lines" should be changed to --line--; and

(2) page 5/12, line 8, the word "lines" should be changed to --line--.

Appropriate correction is required.

Claim Objections

The claims are objected to because of the following informalities:

(1) page 10/12, line 1, the word "**CLAIMS**" (centered in the middle of the line) should be changed to "I claim:", "We claim:", or "The invention claimed is:" (or

Art Unit: 3673

equivalent) (see the Manual Of Patent Examining Procedure (MPEP) § 608.01(m), lines 6-12 of the first paragraph).

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Massey et al. (U.S. Patent Application Publication No. 2004/0119298) in view of Sales (U.S. Patent No. 5,562,315; hereinafter referred to as "Sales '315").

As to claim 1, Massey et al. discloses a prehung patio door comprising:

a combination side by side window portion (16; see page 2, paragraph no. [0027] wherein it states that "Any known type of door may be used as the active door 14 and the passive door 16, including but not limited to wooden doors, metal doors, and solid or glazed doors. Such doors suitable for use in this design are typically called French doors or patio doors.") and pivotal door portion (14), a frame (18) surrounding said combination (14, 16), and a metal mullion (26) located between said portions (14, 16), said pivotal door portion (14) pivotal between closed and opened positions and in the closed position in alignment with said frame (18) with a distal door edge in proximal adjacency to an edge of said mullion (26);

said door portion (14) prepped to receive a door latch mechanism (see knob (unnumbered), striker plate (92), and opening in mullion (26) to receive latch) and as prepped, an elongate slot (through striker plate (92) in said edge of said mullion (26) defining opposed elongate edges, and locking clips (30) secured to said elongate edges, a striker plate (92) having a door latch opening, said locking clips (30) cooperatively designed and positioned in said elongate slot securing the striker plate (92) at a position to receive a door latch when installed in said door portion (14); and

Massey et al. fails to explicitly disclose an edge bore extended into the door portion from said distal door edge, and a retainer plug configured to slidably fit the edge bore, wherein a protrudable end portion of said retainer plug is configured to fit said door latch opening of said striker plate whereby said retainer plug can be inserted into the bore of said door edge with the door in an open position and with the protrudable end portion substantially received in said bore to permit pivoting of the door to its closed position and which thereafter permits slidable protrusion of said protrudable end portion into the latch opening of said striker plate.

Sales '315 discloses a door retainer for a prehung door having an edge bore (32) extended into the door portion (10) from said distal door edge, and a retainer plug (62) configured to slidably fit the edge bore (32), a protrudable end portion of said retainer plug (62) configured to fit said door latch opening (36) of said striker plate whereby said retainer plug (62) can be inserted into the bore (32) of said door edge with the door (10) in an open position and with the protrudable end portion substantially received in said bore (32) to permit pivoting of the door to its closed position and which thereafter

Art Unit: 3673

permits slidable protrusion of said protrudable end portion into the latch opening (36) of said striker plate.

As to claim 2, Massey et al. in view of Sales '315 discloses the prehung patio door and retainer of claim 1, and Sales '315 also discloses that a keeper slot (90) is provided in said plug (62) and positioned between the mullion (40/16) and door edge with the end portion extended into the latch opening (36), and a keeper (64) inserted into said keeper slot (90) to resist return sliding of the plug (62) in the edge bore (32).

As to claim 3, Massey et al. in view of Sales '315 discloses the prehung patio door and retainer of claim 2, and Sales '315 further discloses that a cross bore (30) is provided in the door (10) for mounting a door handle of said latch mechanism, said plug (62) exposed in part through said cross bore (30) to permit gripping and manual sliding of said plug (62) within said edge bore (32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination door arrangement of Massey et al. by incorporating the door retainer assembly of Sales '315 because Sales '315 teaches that it is desirable to secure a pre-hung door in a closed position relative to the frame via a door retainer when a side light it to be provided adjacent the pivotable door (see col. 1, lines 44-60).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Massey et al. (U.S. Patent Application Publication No. 2004/0119298) in view of Sales (U.S.

Art Unit: 3673

Patent No. 5,562,315; hereinafter referred to as "Sales '315"), as applied to claims 1-3 above, and further in view of Dzus, Jr.

As to claim 4, Massey et al. in view of Sales '315 discloses the prehung patio door and retainer of claim 3, and Dzus, Jr. further discloses that the keeper (50) includes resilient projecting fingers (58) that are squeezed together when inserted in the slot (74) of the plug (38) to resist but permit retraction of the keeper (50) from the slot (74) of the plug (38) upon assembly of said door to a building wall.

The examiner notes that the use of resilient locking fingers cooperating with slots is notoriously well known in the door and door latching arts as is shown by Dzus, Jr.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination door arrangement of Massey et al. by incorporating the door retainer assembly of Sales '315 and modifying the keeper of Sales to have resilient projecting fingers as taught by Dzus, Jr. in order to provide a quick acting, efficient and simple latch mechanism for a door and frame arrangement which can releasably hold two members together.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,911,763 to Quesada discloses double French doors having a three point locking mechanism. U.S. Patent No. 5,878,606 to Chaput et al. discloses a deadbolt lock system for swinging type door.


Art Unit: 3673

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Thursday, 8:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571)-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gay Ann Spahn, Patent Examiner
May 19, 2005


HEATHER SHACKELFORD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600